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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,161	12/26/2001	Raymond Jeffrey Dufty	FISHER-N	9393

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EXAMINER

LUBY, MATTHEW D

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 08/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/034,161

Applicant(s)

DUFTY, RAYMOND JEFFREY

Examiner

Matt Luby

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Species I, Figures 1-7, claims 1-12 in Paper No. 8 is acknowledged. It is also noted that claim 13 is present in the case but is neither readable on Species I or II because it is improper as an omnibus claim. This claim has been rejected below and claims 1-12 have been examined on the merits as well.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "105" has been used to designate both a "drive roller" (page 9, line 1) and "axle ends" (page 10, line 3). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "11" has been used to designate both a "conventional mower" (page 11, line 4) and "cutting blades" (page 11, line 8). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Specification***

4. Figures 8 and 9 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 1 recites the limitation "which pivot frame is attachable to maintenance apparatus in use". It is unclear what this maintenance apparatus is in the first instance (since no previous description exists in the claim of the maintenance apparatus). Secondly, it is unclear if the maintenance apparatus is actually part of the invention of the trailer (as claimed in the preamble) or whether it is merely intended to be towed by the trailer (and therefore only incidental and functional as part of the claim).

8. Claims 10 and 11 recite the limitations "corresponding projections" and "the projections". It is unclear whether this is intended to be part of the claimed invention since the preamble of Applicant's claimed device is directed to a trailer and not the

actual maintenance apparatus. These limitations create an inconsistency and render the claims vague and indefinite. For purposes of examination, the claims will be interpreted to be drawn only to a trailer (since that is what is recited in the majority of the claims) and not a maintenance apparatus with projections).

9. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-11 and 13, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Parsen (U.S. Patent 3,764,031).

12. Parsen discloses a trailer (shown in Figures 5 and 6) including: (i) a trailer frame (32) supported by ground engaging wheels (shown in Figures 5 and 6); (ii) a pivot frame (portion angled with respect to the ground as shown in Figure 6) pivotally attached to the trailer frame by pivot attachment means (shown in Figure 6 near 64) which pivot frame is attachable to a maintenance apparatus in use (it is noted that since mere attachability has been recited, this limitation is met by the fact that the pivot frame can be attached to a device to be towed); and (iii) connection means (24 best shown in

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the embodiment of Figure 3 but also present in the embodiments of Figures 5 and 6) to a prime mover (shown in phantom in Figure 1), wherein the trailer frame is U-shaped (shown in Figure 5), wherein the pivot frame is U-shaped (shown in Figure 5), wherein the pivot attachment means comprises a pair of pivot joints in opposed relationship (64 are pivot joints in opposed relationship), wherein the connection means comprises a drawbar interconnecting the trailer frame and the prime mover in use (24 is a drawbar which connects the tongue member 16 of the trailer frame and the prime mover - best shown in the embodiment of Figures 1 & 3 but also taught by the embodiment of Figures 5 & 6), wherein the pivot frame overlies the trailer frame in transportation mode and is in abutment with the trailer frame (shown in Figures 5 and 6), wherein in a loading mode the pivot frame is pivotable upwardly relative to the trailer frame which is stationary to facilitate attachment to the maintenance apparatus (shown in Figures 5 and 6), wherein there is provided attachment means (62) between the pivot frame and the maintenance apparatus which fixedly engages (treaded, grooved rails 62 engage the wheels of a maintenance apparatus as well as tie-downs, 76) the maintenance apparatus so that upon pivotal movement of the pivot frame relative to the trailer frame the maintenance apparatus is elevated clear of the ground with a substantial part of the maintenance apparatus avoiding contact with the trailer (shown in Figures 5 and 6), wherein the attachment means comprises a pair of opposed rigid couplings between the pivot frame and the maintenance apparatus (62 are a pair of opposed rigid couplings between the pivot frame and the maintenance apparatus) and wherein each rigid coupling comprises a socket, channel or notch (the treaded grooves 62 are channels)

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on the pivot frame for engagement with the maintenance apparatus (shown in Figures 5 and 6)

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parsen in view of Eischen (U.S. Patent 4,813,841).

15. Parsen discloses all of Applicant's claimed invention except for the trailer comprising fluid actuated means between the pivot frame and trailer frame. Eischen discloses that it is well known to incorporate fluid actuated means (33 - column 2, lines 67-68) between a pivot frame and trailer frame of a trailer in order to provide a damping rate to accommodate the weight of the vehicle being towed (column 4, lines 29-34). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide fluid actuated means between the pivot frame and the trailer frame on the Parsen trailer, as taught by Eischen, in order to provide a damping rate to accommodate the weight of the vehicle being towed.

***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure because it relates to pivoting trailer frames.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matt Luby whose telephone number is (703) 305-0441. The examiner can normally be reached on Monday-Friday, 9:30 a.m. to 6:00 p.m..

18. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

19. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Matt Luby  
Examiner  
Art Unit 3611



M.L.  
August 7, 2003